

App. No. 10/853,526
Reply to Office Action of 8/21/06

Attorney Docket 42P17362

Remarks

The referenced patent application has been reviewed in light of the referenced Office Action.

In the Specification, the Abstract has been amended to clarify Applicant's claimed invention.

In the Claims, claims 1-28 are pending in the referenced application. No claims are amended in this Response.

The Office Action objects to the Abstract because of informalities described in page 2 of the Office Action. The Specification as amended is free of the identified informalities.

Claims 1-5 and 10-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Zalewski et al., US Patent No. 6260068 B1 (Zalewski).

To sustain a rejection under 35 USC 102(b) every element of a claim so rejected must be disclosed or fairly suggested by the cited prior art reference.

Applicant's claim 1 includes an element relating to (reciting claim 1 in pertinent part): making a processor execution resource previously reserved for the first processor available to a second processor. According to the Action, Zalewski discloses this element of claim 1 at co. 29, lines 39-44.

At the referenced lines of Zalewski, however, the reference states that "[t]he migration process operates under a "push" model in that the original resource owner must first release the resource before the new owner can begin using the resource. The basic steps in one embodiment of this push migration process are illustrated in the flowchart." However, the "resource" referenced in Zalewski refers to a resource used by an operating system instance allegedly

1/8/2007

9 of 12

App. No. 10/853,526
Reply to Office Action of 8/21/06

Attorney Docket 42P17362

operating in a partition, and allegedly to the migration of *operating system* resources *from one partition to another*. Zalewski however neither discloses nor suggests making processor execution resources that are reserved by a processor as in Applicant's claim available to another processor. Therefore this element of claim 1 is neither disclosed nor suggested by Zalewski. Therefore the rejection of claim 1 as anticipated by Zalewski cannot stand for at least the above reason and should be withdrawn.

The same argument is used in the Action to reject claims Claims 10, 15, and 20, each of the remaining independent claims in the Application, and each of which contain the above referenced element relating to making a processor execution resource previously reserved for the first processor available to a second processor. Therefore for at least the same reasons as discussed above for claim 1, the rejections of claims 10, 15 and 20 as rejected by Zalewski also cannot stand and should be withdrawn.

Claims 2-5, 11-14, 16-19, and 21-24 depend on claims 1, 10, 15 and 20 respectively and their rejections as to the above discussed element which each of these claims includes by inheritance, relies on the same argument as made above by the Action with reference to the above discussed element of claim 1, and therefore these rejections also cannot stand for at least the same reasons as discussed above for claim 1 and should be withdrawn.

Claims 6-9 and 25-28 are rejected under 35 U.S.C. 103(a) as unpatentable in view of Zalewski.

To sustain a rejection under 35 USC 103(b) every element of a claim so rejected must be disclosed or fairly suggested by the cited prior art references in combination to one of ordinary skill in the art.

1/8/2007

10 of 12

App. No. 10/853,526
Reply to Office Action of 8/21/06

Attorney Docket 42P17362

However, Applicant notes that the rejections of the claims under 35 USC 103(a) rely on the above discussed rejections of claims 1 and 20 as anticipated by Zalewski. Therefore because the rejections of claims 1 and 20 cannot stand, as argued previously, the rejections of claims 6-9 and 25-28 also cannot stand for at least this reason and should be withdrawn. Applicant reserves the right to argue other assertions made in rejecting these claims in the future.

Therefore as argued above, the rejections of all claims pending in the application, i.e. claims 1-28 should withdrawn and the claims allowed.

1/8/2007

11 of 12

App. No. 10/853,526
Reply to Office Action of 8/21/06

Attorney Docket 42P17362

The Examiner is welcome to contact the Attorney of Record, Sanjay S. Gadkari
(Reg. No. 55,796) at 503 264 4348 to discuss any matters with the case. The
Commissioner is hereby authorized to charge any fees in connection with this
communication to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: January 8, 2007

/Sanjay S. Gadkari/

Sanjay S. Gadkari
Reg. No. 55,796

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025-1026
(503) 684-6200

1/8/2007

12 of 12